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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,761	03/06/2002	Terry Joe Hanna	7179	3350

7590 09/14/2004

JOHNS MANVILLE INTERNATIONAL, INC.  
Legal Department  
P.O. Box 5108  
Denver, CO 80217

EXAMINER
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HUG, ERIC J

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/092,761

Applicant(s)

HANNA, TERRY JOE

Examiner

Eric Hug

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-28,31 and 32 is/are allowed.
- 6) ☒ Claim(s) 1-4,11-14,29 and 30 is/are rejected.
- 7) ☒ Claim(s) 5-10 and 15-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 11-14, 29, and 30 are rejected under U.S.C. 102(e) as being anticipated by Melia et al (US 6,196,029).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Melia discloses a glass fiberizing bushing for making fibers from molten glass. The bushing has an orifice plate (8), opposed side walls (4), opposed end walls (not shown; see column 3, line 18) and electrically conductive terminal ears (51) attached to the side walls. In Figure 5, the terminal ear has a V-notch at the unattached end. The V-notch is positioned so that the cross-sectional area of the ear increases towards the attached end, as a result of having the

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widest portion of the V-notch at the unattached end. The unattached end of the terminal ear is also where an electrical terminal clamp is attached.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 11-14, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yantsev et al (US 3,589,879). Yantsev qualifies as prior art under 35 U.S.C. 102(b).

Yantsev discloses a glass fiberizer with nozzle feeder (12) and orifices (21) through which a glass melt flows. Attached to the end walls are two terminal ears (unlabeled) that have a U-shaped notch at the unattached end (see Figure 2). The notch is positioned so that the cross-sectional area of the ear increases towards the attached end, as a result of having the widest portion of the U-shaped notch at the unattached end. Although not expressly disclosed, the unattached end of the terminal ear is obviously where an electrical terminal clamp would be attached.

The claimed V-notch is unpatentable in view of the U-shaped notch of Yantsev. The Federal Circuit's predecessor court, the CCPA, has repeatedly held that presumption of obviousness was formed, based on the ken of routineer, whenever a difference was deemed minor. See *In re Dailey*, 149 USPQ 47 (CCPA 1976), where it was held that a change in form or shape is an obvious

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engineering design. In the present invention, the difference between a V-notch and a U-shaped notch is deemed minor, and therefore the V-notch represents an obvious shape change over a U-shaped notch.

*Allowable Subject Matter*

Claims 22-28, 31, and 32 are allowed.

Claims 5-10 and 15-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The claims are allowable for providing at least two V-notches in each terminal ear, with the widest portion of each V-notch being at the unattached end of the ear.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sullivan (US 6,427,492) discloses a terminal ear for a glass fiberizing bushing comprising support members welded to the outer side edges of the terminal ear. The support members may take on any one of a number of shapes, including a V-shape or one having several V-shaped notches.

Fowler (US 4,740,224) discloses a fiberizing bushing having two spaced apart terminal ears on each end wall.

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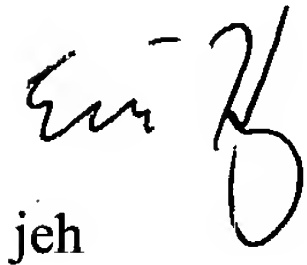
Higgenbotham (US 4,026,689) discloses a fiberizing bushing having terminal ears with a V-shaped notch. The notch is located at the end of the ear attached to a side wall.

Glaser et al (US 3,512,948) discloses terminal ears in a Y-shaped configuration made from two diverging flanges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 571 272-1192. The examiner can normally be reached on Monday through Friday, 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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